

Minutes of: CALIFORNIA STATE ATHLETIC COMMISSION
Meeting Specifics: Regular Commission Meeting
May 24, 2001 – 9:00 a.m.
Sacramento – Department of Consumer Affairs –
Headquarters
400 R Street, Suite 1030
Sacramento, CA

1. CALL TO ORDER BY CHAIRMAN

Commissioners Present: Manuel “Cal” Soto, Chairman
Alvin Ducheny
Van Gordon Sauter
Sanford Michelman

Commissioner Not Present: Elmer Costa, Vice-Chairman

Staff Present: Rob Lynch, Executive Officer
Anita Scuri, DCA Legal Counsel
Frank Munoz, Recording Secretary
Dean Lohuis, Chief Inspector
Sal Barajas, Assistant Chief Inspector
Leydis Church, Associate Governmental Program Analyst
Rebecca Alvarez, Staff Services Analyst
Angelica Offenbecher, Office Technician
Jessica Finch, Office Technician

2. APPROVAL OF MARCH 22, 2001 COMMISSION MEETING MINUTES

There were no corrections.

Action: Motion by Commissioner Ducheny and seconded by
Commissioner Sauter to approve the March 22, 2001 minutes.
Vote: Unanimous

3. SUMMARY OF CHAIRMAN ACTIVITIES SINCE LAST MEETING

Chairman Soto informed the commission that Commissioner Don Novey resigned from the commission in December of 2000 but neither he nor staff had become aware of this until April of 2001. He noted that the commission currently had two Governor appointed positions left to complete the appointments of the commission.

Chairman Soto reported that he went to a fight in Palm Springs and staff as well as the officials did a great job. He informed the commission that one of the bouts had a little

problem because one of the fighters did not have any seconds to assist him. He added that Mr. Lohuis resolved this problem by recruiting professional boxer/second Mr. Julio Gonzalez. He noted that Mr. Gonzalez was going to be Mr. Roy Jones' opponent in the July 28, 2001 championship bout at the Staples Center in Los Angeles.

4. SUMMARY OF EXECUTIVE OFFICER ACTIVITIES SINCE LAST MEETING

Mr. Lynch informed the commission that on April 4, 2001, the commission's Los Angeles office was functioning at its new location. At that point, he thanked Ms. Rebecca Alvarez for all her hard work in coordinating the office move.

Mr. Lynch reported that on April 24, 2001, commission staff was alerted to a bill that could have a major impact on the commission. The bill was SB694, which Senator Sher introduced. At that point, Mr. Lynch stated that this would be addressed, in detail, later in the meeting.

Mr. Lynch informed the commission that on April 3, 2001 the commission's 2001-02 budget was heard before the Assembly Budget Subcommittee #4 and was passed on consent.

Mr. Lynch reported that the commission's pension bill (AB286 Cedillo) was "sailing along smoothly." He stated that on April 16, 2001 it cleared the Assembly Committee on Governmental Organization, on May 2, 2001 it cleared the Assembly Committee on Appropriations and it passed on the Assembly floor on May 14, 2001. He noted that it had cleared every committee unanimously.

Mr. Lynch informed the commission that on April 17, 2001, he along with Mr. Plowman and Commissioner Ducheny conducted an arbitration hearing in San Diego.

Mr. Lynch reported that on April 20, 2001, he accompanied Commissioner Michelman to the Department's new board member orientation session in Los Angeles.

Mr. Lynch informed the commission that from what he had seen in the Sacramento Bee, the governor might reduce all departmental budgets by 2.5%. He noted that he would keep the commission posted.

Lastly, Mr. Lynch informed the commission that there were tentatively three world title bouts scheduled for July 28, 2001 at the Staples Center in Los Angeles. He noted the following:

- Roy Jones Jr. vs. Julio Gonzalez (WBC/IBF/WBA)
- Erick Morales vs. Injin Chi (WBC)
- Derrick Gainer vs. Juan Marquez (WBA)

5. LICENSE APPROVALS - NEW APPLICATIONS - SPECIAL CONSIDERATIONS - ACTION

5.1 Anthony Lewis - dba Can't Lewz Entertainment - Professional Boxing Promoter - Original

Mr. Lynch reported that Mr. Lewis was applying for an original 2001 professional boxing promoter license. He informed the commission that Can't Lewz Entertainment met all licensing requirements and was issued a temporary professional boxing promoter license on March 28, 2001. He noted that Mr. Lewis had 15 amateur fights, fought in the Golden Gloves and Diamond Belt Tournaments, fought in 5 professional bouts and sparred with various world-class boxers.

Mr. Lynch stated that Mr. Lewis intended on promoting at the Olympic Auditorium in Los Angeles but to date Mr. Lewis had not yet promoted any events. He noted that Mr. Alex Patton would act as matchmaker. At that point, Mr. Lynch recommended that Mr. Lewis be granted an original 2001 professional boxing promoter license.

Since Mr. Lewis' application was for a corporation license, Ms. Scuri stated the application needed to be modified to reflect Can't Lewz Entertainment, Inc. as the applicant. She asked that the correction be made at the meeting and that Mr. Lewis initial the change.

Mr. Lynch asked Mr. Lewis why he wanted to promote at the Olympic Auditorium because in the past it was a losing venue. Mr. Lewis stated that the Olympic Auditorium had a vast history in the sport of boxing and with his experience in the sport he felt that he would do a good job with creating a fan base.

Chairman Soto informed Mr. Lewis that as a child in the early 1940's he used to work at the Olympic Auditorium selling magazines. At that point, Chairman Soto asked Mr. Lewis if he used to fight in Los Angeles. Mr. Lewis informed him that he used to fight at the Hollywood Athletic Club.

Mr. Lewis informed the commission that he wanted to create a new form of a promotion that would attract the younger generation of boxing fans mainly the "hip hop generation." He stated that he would include music from disc jockeys that would play during intermissions and while the fighters approach the ring. He added that several promoters were starting to do similar things and noted the May 22, 2001 event in San Francisco where a fashion show was held. He noted that with this new form of promotion he could generate a new and younger fan base that would enjoy the fights as well as the atmosphere.

Action: Motion by Commissioner Ducheny and seconded by Commissioner Michelman to grant Can't Lewz Entertainment, Inc. an original 2001 professional boxing promoter license.

Vote: Unanimous

6. APPEAL OF SUSPENSION/RETIREMENT - ACTION

6.1 Jose Gonzalez - Professional Boxer - Retired

Since Mr. Gonzalez did not attend this meeting, Mr. Lynch asked the commission if staff could take him off of the agenda because Mr. Gonzalez had not appeared at the last five commission meetings. At that point, Commissioner Ducheny stated that he could not act on Mr. Gonzalez' retirement until he heard his statements regarding the retirement. Commissioner Ducheny concurred with Mr. Lynch.

Ms. Scuri informed the commission that they could remove him from the agenda from future meetings unless Mr. Gonzalez submitted a new request to appear before the commission to appeal his retirement. She added that the commission could vote at this meeting to keep Mr. Gonzalez retired from professional boxing.

Action: Motion by Commissioner Ducheny and seconded by
Commissioner Michelman to keep Mr. Gonzalez retired from
professional boxing.

Vote: Unanimous

6.2 Artyom Galstyan - Professional Boxer - Retired

Mr. Barajas informed the commission that Mr. Galstyan was retired from professional boxing based upon his performance against Everardo Torres on February 15, 2001 in Irvine. He stated that the referee stopped the bout at 2 minutes and four seconds of the first round due to the tremendous amount of blows that Mr. Galstyan received while standing inactive against the ropes. Mr. Barajas noted Mr. Galstyan's record of zero wins against four losses and the four losses were by way of two first round knockouts and two-second round knockouts. At that point, Mr. Barajas recommended that Mr. Galstyan remain retired from professional boxing.

Mr. Galstyan stated that he lost his first fight, during his second fight he hurt his shoulder, during his third and fourth fight the referee stopped the bouts. He explained that the reason why he performed terribly was due to the lack of training that he received from his trainer. He requested that the commission give him another chance to prove his ability because he had acquired a new trainer, Mr. Freddie Roach, and he felt that with Mr. Roach's guidance he could successfully compete as a professional boxer.

Chairman Soto asked Mr. Barajas if Mr. Galstyan participated in only four round fights. Mr. Barajas concurred and stated that all of Mr. Galstyan opponents either had one or two fights prior to fighting Mr. Galstyan. At that point, Mr. Barajas deferred to Mr. Lohuis for more input regarding Mr. Galstyan's ability.

Chairman Soto asked Mr. Lohuis if during Mr. Galstyan's last fight was he knocked out then counted out or did the referee stop the fight. Mr. Lohuis stated that during all of Mr.

Galstyan's fights he was put under a lot of pressure but he was never knocked out. Mr. Lohuis added that Mr. Galstyan was basically outclassed in all of his fights.

Mr. Lynch asked Mr. Lohuis if he felt that the Roach brothers would do a better job training Mr. Galstyan. Mr. Lohuis stated that the Roach brothers were very good trainers and he would personally like to see the difference in Mr. Galstyan's skills.

Mr. Galstyan stated that boxing was his life and in his country he had between 17 to 18 amateur fights. He requested that the commission give him another chance to prove his ability in another fight under the guidance of his new trainers.

Commissioner Ducheny asked Mr. Lohuis if in fact he knew that Mr. Galstyan had acquired a new trainer. Mr. Lohuis informed Commissioner Ducheny that he did know for a fact because Mr. Pepper Roach approached him and stated that he and his brother were training Mr. Galstyan.

Chairman Soto stated that he would like to give Mr. Galstyan one more fight under his new trainers to see if Mr. Galstyan's skills improved but if he did not improve then the commission could retire him. He made it clear to Mr. Galstyan that the commission would not hesitate to retire him if his skills did not improve because the commission's main purpose was to protect his health and safety.

Commissioner Sauter and Michelman concurred with Chairman Soto's recommendation. Commissioner Ducheny concurred but stated that it would not be whether Mr. Galstyan won his fight or not because the main purpose was seeing if Mr. Galstyan's skills improved. The commission concurred.

Action: Motion by Commissioner Sauter and seconded by Commissioner Michelman to reinstate Mr. Galstyan's professional boxing license and staff would monitor Mr. Galstyan's next bout and return promptly to the commission with a recommendation as to what the next appropriate step would be.

Vote: Unanimous

7. REGULATION HEARING - ACTION

7.1 Rules 376 & 377 – Grading Referee Performance/Hearing to Remove Referee License

Ms. Church stated that during the January 25, 2001 commission meeting, staff requested that the commission examine the language in Rules 376 and 377 and make any necessary changes prior to the hearing date. She added that currently staff made the necessary changes and requested the commission's approval once they received all written and oral comments regarding the proposed changes to the regulations at this meeting.

Ms. Church stated that Rule 376 dealt with the grading of a referee's performance. She added that staff was proposing an amendment to Subsection (a) and an adoption of language to Subsection (b).

Rule 376 currently reads:

376. Grading of Referee's Performance

It shall be the duty of the assigned commission representative to grade each boxing referee's performance for each contest presided over by the referee. The grade shall be either satisfactory, unsatisfactory, or needs improvement. The grade shall be arrived at by considering, among other things, the referee's reflexes, and overall ability to direct and control the contest in a manner designed to ensure the protection of the participants and to obtain the contestants' compliance with the statutes and rules of the commission applicable to the particular contest. The grader may include written comments where a satisfactory grade is rendered but shall make specific written comments where a grade of unsatisfactory or needs improvement is rendered. The grade and any comments pertaining thereto shall be filed with the executive officer in the Sacramento office and may be inspected or copied by the referee or anyone designated in writing by the referee so graded. Any referee wishing to protest an evaluation shall do so in writing within 30 days after the evaluation has been served on the referee.

Rule 376 with the amendments and the inclusion of Subsection (b) reads:

376. Grading of Referee's Performance

(a) It shall be the duty of the assigned commission representative to ~~grade~~ evaluate each boxing referee's performance for each contest presided over by the referee. The ~~grade~~ evaluation shall result in a grade of ~~shall be~~ either satisfactory, unsatisfactory, or needs improvement. The grade shall be arrived at by considering, among other things, the referee's reflexes, and overall ability to direct and control the contest in a manner designed to ensure the protection of the participants and to obtain the contestants' compliance with the statutes and rules of the commission applicable to the particular contest. The ~~grader~~ evaluator may include written comments where a satisfactory grade is rendered but shall make specific written comments where a grade of unsatisfactory or needs improvement is rendered. The grade and any comments pertaining thereto shall be filed with the executive officer in the Sacramento office and may be inspected or copied by the referee or anyone designated in writing by the referee so graded. Any referee wishing to protest an evaluation shall do so in writing within 30 days after the evaluation has been served on the referee.

(b) If a referee files a written protest of any evaluation, the executive officer or that person's designee shall, in consultation with the evaluator, discuss the evaluation with the referee. Where the evaluation was unsatisfactory or needs improvement, the referee shall be given recommendations for improving his or her performance.

Ms. Church stated that Rule 377 dealt with the hearing process to remove a referee's license. She added that staff was proposing an amendment to Subsection (a) and an adoption of language to Subsection (b).

Rule 377 currently reads:

377. Hearing to Remove Referee's License

At any time during the course of a boxing contest should it become apparent to any duly authorized representative of the commission that any referee is not discharging his responsibilities in a manner which ensures the safety of the participants, a written report shall be filed with the executive officer. The referee shall be notified that he shall not be assigned to referee another contest until a hearing is held. If the referee requests a hearing, a hearing shall be held within thirty days of the request. The commission itself may conduct the hearing, or it may delegate this responsibility to any duly authorized representative of the commission. The hearing shall be held to determine whether the referee's license shall be revoked or suspended or other appropriate action taken by the commission. The decision resulting from the hearing shall be final.

Rule 377 with the amendments and the inclusion of Subsection (b) reads:

377. Hearing to Remove Referee's License

(a) At any time during the course of a boxing contest should it become apparent to any duly authorized representative of the commission that any referee is not discharging his responsibilities in a manner which ensures the safety of the participants, a written report shall be filed with the executive officer. The referee shall be notified that he shall not be assigned to referee another contest until a hearing is held. If the referee requests a hearing, a hearing shall be held within thirty days of the request. The commission itself may conduct the hearing, or it may delegate this responsibility to any duly authorized representative of the commission, who shall then make a recommendation to the commission in the matter. The hearing shall be held to determine whether the referee's license shall be revoked or suspended or other appropriate action taken by the commission. The decision ~~resulting from the hearing~~ of the commission shall be final.

(b) If the executive officer becomes aware of two or more bouts where a referee has not discharged the referee's responsibilities with the requisite skills to ensure the safety of the participants, the executive officer shall notify the referee of his or her specific deficiencies and each date and bout where the deficiencies were noted. The executive officer may consider all bouts over which the referee presided, regardless of whether the referee received any formal evaluation and regardless of whether that evaluation was satisfactory. The referee may request a hearing within thirty days from the date of the notification. If the referee requests a hearing, a hearing shall be held within thirty days of the request. The commission itself may conduct the hearing, or it may delegate this responsibility to any duly authorized representative of the commission, who shall then make a recommendation to the commission in the matter. The hearing shall be held to

determine whether the referee's license shall be revoked or suspended or other appropriate action taken by the commission. The decision of the commission shall be final.

Ms. Church stated that staff recommended that the commission adopt the proposed language as modified at the January 25, 2001 commission meeting and upon adoption, staff would go forth with the regulatory process.

Mr. Lynch noted that staff had not received any written or oral comments. At that point, Ms. Scuri advised the commission that they had to open the floor for public comment.

Chairman Soto asked the persons in attendance if they had any comments. No comments were received.

Ms. Scuri informed the commission that the hearing was now closed and they could discuss and choose whether or not to adopt the changes. She stated that the changes were made to try to make the referee evaluation process more flexible to detour a full-scale hearing every time a referee received an unsatisfactory evaluation.

At that point, Mr. Lynch asked Ms. Scuri if he could make a public comment on Rule 377. Ms. Scuri advised Mr. Lynch that he could. He stated that in the first sentence of Subsection (b) it stated that "If the executive officer becomes aware of two or more bouts where a referee has not discharged the referee's responsibilities with the requisite skills..." contingent to that sentence, Mr. Lynch asked the commission if there should be a time period included. He added that in his opinion this might be needed because if a referee received an unsatisfactory evaluation in 1999 and then received one in 2002 it could create a problem. He recommended that the following sentence be reflected in Rule 377 "...if he who becomes aware of two or more bouts were a referee is not discharging his duties within a calendar year..."

At that point, Ms. Scuri stated that this could be reflected in Rule 377 but staff would have to give a ten-day notice. Commissioner Ducheny asked Ms. Scuri if the commission would have to reschedule this item again for a future meeting. Ms. Scuri informed him that the commission could delegate to the executive officer the authority to adopt the regulation after the expiration of the 15-day comment period if there were no adverse comments. She added that since there were no written or oral comments previously received regarding Rule 377, she did not feel there would be any foreseeable problems.

Mr. Barajas stated that the second sentence in Subsection (b) might give the flexibility. The sentence reads as follows, "The executive officer may consider all bouts over which the referee presided, regardless of whether the referee received any formal evaluation and regardless of whether that evaluation was satisfactory." Mr. Lynch concurred but he still wanted to include a calendar year.

Ms. Scuri asked Mr. Lynch if what he was recommending was to modify the language to relay that if the executive officer becomes aware of two or more bouts within a 12-month period. Mr. Lynch concurred.

Referencing sentence two of Subsection (b), Mr. Barajas asked Ms. Scuri if this would limit the consideration of all bouts over which the referee presided over to only the 12-month calendar period. Ms. Scuri and Mr. Lynch concurred.

Commissioner Michelman asked Mr. Lynch if there was a specific reason why he wanted to limit the requirement to 12-months. Mr. Lynch stated there are times when a referee might have a “bad night” and would receive an unsatisfactory evaluation but that same referee probably would not receive another unsatisfactory evaluation for the next two years.

At that point, Commissioner Sauter asked Mr. Lynch what percentage of the referees’ bouts were evaluated. Mr. Lynch informed him that it was 100%. For clarification, Commission Sauter asked if every fight was evaluated. Mr. Lynch concurred.

Mr. Lynch stated that the 12-month calendar period clarified itself. He felt that a referee should not be punished if he received an unsatisfactory evaluation one-year and did not receive another until two years later. Ms. Scuri stated that the reason why a timeframe was not originally included was that the idea behind the section was to allow for a “pattern of practice” where it would reflect a referee’s skills starting to deteriorate over time. Mr. Lynch concurred with Ms. Scuri and he stated that he would be satisfied with or without the 12-month inclusion.

Referencing the 12-month calendar period, Commissioner Michelman stated that it would be unfortunate if an unsatisfactory evaluation was missed by a couple of days, weeks or months. He added that if a referee did receive two or more unsatisfactory evaluations within two years or 12 months it did not necessarily mean that the executive officer’s recommendation would be to revoke or suspend the referee’s license. He noted that it would basically be used for a “check and balance” act to ensure that the referee’s abilities were up to par.

At that point, Mr. Lynch withdrew his request.

Commissioner Sauter stated that he felt that the decision should be left up to the discretion of the executive officer. He asked if there were formal and informal evaluations in place. Mr. Lynch stated that there were and he detailed the evaluation process. Mr. Lynch stated that an evaluation would be deemed formal if one of the commission’s designated Referee Evaluators evaluated the bout and an informal evaluation would be completed by a commission staff member such as an inspector who evaluated a referee’s performance during a bout.

Commissioner Sauter stated that at the May 22, 2001 event in San Francisco he did not see an evaluator present and he asked Mr. Lynch who did the evaluations. Mr. Lynch

informed him that Mr. Barajas performed informal evaluations on the referees who worked that night. Commissioner Sauter asked Mr. Barajas if he in fact evaluated the referees. Mr. Barajas concurred. Commissioner Sauter stated that Mr. Barajas was very busy that night and the evaluations were performed much differently than he had seen before when attending fights while Larry Rozadilla worked as an evaluator. For clarity, Commissioner Sauter stated that the evaluations that Mr. Rozadilla completes were formal and the evaluations that Mr. Barajas completed were informal. Mr. Lynch concurred.

Commissioner Sauter asked Mr. Barajas if he submitted a report after every fight where he completed an informal evaluation. Mr. Barajas stated that he discussed the bouts and anything that needed attention with the referee. Commissioner Sauter asked if there was a report or any formal representation. Mr. Barajas informed him that there was not. Commissioner Sauter stated that there was no formal written record of every referee's performance. Mr. Barajas stated that if the referee's performance was very poor there would be a written report; however, he noted that at the San Francisco event all referees performed at a satisfactory level.

Commissioner Sauter stated that there were two separate levels of performance that were established concerning referee evaluations. Firstly, he stated that he watched a former referee with years of experience complete referee evaluations with his whole attention on the referee's performance. Secondly, he stated that at the San Francisco fight Mr. Barajas was rightfully distracted with the happenings of the event. He noted that the commission should be careful of this practice. Mr. Lynch concurred.

Commissioner Sauter stated that there was already a lawsuit in process regarding referee evaluations and he felt that staff should be careful when talking of depriving a person of the ability to referee when there is no comprehensive program of evaluation. He added that a referee who might be under Mr. Rozadilla's supervision periodically might be subjected to a terribly exacting standard of performance and that same referee at other venues where there was no one who dedicated 100% of their time on site to evaluations might receive satisfactory evaluations. He noted that there was no positive or negative repercussion if there is no consistent formal evaluation and he felt that this was awkward.

Commissioner Sauter stated that he was disinclined to vote on this until there was resolution on this aspect of it because it did not represent an equity for the referees.

For clarity, Commissioner Michelman asked Commissioner Sauter if the problem that he had was the fact that there might not be a formal evaluator present at all fights which somehow a referee might not have to live up to his/her standards when a referee evaluator was not present. Commissioner Sauter stated that a referee might have one or two bad nights but on 15 other nights where there was no referee evaluator present the referee might have preformed flawlessly but there would be no written record reflecting it. He added that there was no tracking system that would provide the commission with a comprehensive standard, which he presumed, would be necessary to say whether or not a referee's license should be suspended or revoked.

Commissioner Michelman concurred but stated that the real “red flag” would be whether or not the two poor evaluations that the executive officer was aware of merited a “flag” that would bring the referee’s ability under review and not whether or not there should be some conclusive action taken. Ms. Scuri concurred.

Ms. Scuri stated that the language in the regulation about the executive officer considering all bouts was designed to take into consideration the fact that a referee might have one or two bad nights. She added that this tended to work in the referee’s favor because it allowed the executive officer to compare other fights, which there were no reports that showed unsatisfactory evaluations.

At that point, Commissioner Sauter asked if the executive officer and legal counsel were comfortable that a referee would get credit in this evaluation process for good performance at fights where there would be no formal evaluation. He also asked if the commission felt that the informal evaluation process rises to the needs of a fair evaluation. Mr. Lynch stated that he felt that the process would work. Commissioner Ducheny stated that he understood what Commissioner Sauter was relating but he was hesitant on not moving forward with this regulation because he felt that this issue needed to be dealt with now.

Commissioner Sauter stated that he would move forward if legal counsel agreed with the proposed amendments to the regulation. Ms. Scuri stated that she concurred with the executive officer but she was trying to think of a way to address his concerns. Commissioner Sauter stated that since his concerns were isolated it did not deserve that kind of effort. He added that if legal counsel was comfortable with the proposed changes then he was.

Action: Motion by Commissioner Sauter and seconded by Commissioner Ducheny to adopt the proposed language as modified.
Vote: Unanimous

7.2 Rules 401 & 403 – Definitions/Funding and Contributions

Ms. Church stated that as part of the regulatory process the commission must accept written and oral comments regarding the proposed regulations. She informed the commission that at that point of the meeting a hearing would commence which would allow the public the opportunity to make any comments relating to the proposed changes.

Ms. Church informed the commission that staff was requesting to amend two sections 401 and 403 of the Professional Boxers’ Pension Plan Regulations. She informed the commission that currently a covered boxer might have a break in service and then return to the ring to fight again. She stated that normally when a boxer has a break in service, he or she would only be able to participate in 50% of the funding allocation rather than 100%. She noted that due to the discussion with Mr. Kevin Long, the commission’s pension consultant, they all agreed that this should not apply to covered boxers who came back to fight after a break in service. She added that the proposed amendments to 401 (k)

and 403 (c)(2) permitted any covered boxer to participate in 100% of the allocation of funds after a break in service for any year in which the boxer fights.

At that point, Ms. Scuri recommended that the commission adopt the proposed language as written and upon adoption staff would go forth with the regulatory process.

Mr. Lynch stated that as of the date of the meeting staff had not received any written or oral comments regarding the proposed amendments.

Chairman Soto opened the floor for public comments. There were no public comments and the hearing was closed.

Action: Motion by Commissioner Michelman and seconded by Commissioner Ducheny to adopt the proposed language as modified.

Vote: Unanimous

8. INFORMATION TO FEMALE FIGHTERS REGARDING PREGNANCY - ACTION

Mr. Lynch stated that Ms. Scuri created an informative notice that would be given to all female fighters both amateurs and professionals. The notice reads as follows:

What Can Happen If I Fight When I am Pregnant?

The California State Athletic Commission understands that you have chosen voluntarily to be a fighter. The commission wants you to know what can happen if you fight when you are pregnant. If you fight when you are pregnant, you could have a miscarriage. You or your fetus could also suffer other permanent injury. The commission strongly encourages you to have a pregnancy test before each of your fights, but it cannot require you to have a pregnancy test. The commission also wants you to know that the State of California and its agents (including ringside physicians) are not responsible for any harm that might happen if you fight when you are pregnant.

I have read and understand the statements made above.

Boxer Name

Boxer Signature

Date

Mr. Lynch informed the commission that the female fighter would sign this form and staff would witness it. Ms. Scuri reminded Mr. Lynch and the commission that the female fighters were not required to sign the notice. She added that if the female fighters opted not to sign it, staff could make a notation for the commission's records. At that

point, Mr. Lynch recommended to the commission that staff use the notice until such time the commission could require pregnancy testing via regulation.

Mr. Lynch stated that at the last meeting the commission directed staff to contact other state commissions regarding their regulation of pregnancy testing. He informed the commission that Florida, New York, Texas, New Jersey, Oklahoma, and Pennsylvania sent their regulation packages to staff. He noted that California was the biggest state, held the most events, but did not require pregnancy testing.

Ms. Scuri asked Mr. Lynch if the other states obtained pregnancy testing by legislation, regulation, or fiat. Mr. Lynch stated that they went through all three. He added that Oklahoma had the luxury of fiat as well as collecting state taxes on beer and concessions sales during professional wrestling events.

Commissioner Sauter asked Mr. Lynch why Dr. Wallace did not appear at the meeting since he was the key party who brought the issue of the notice to the commission's attention on prior occasions. Mr. Lynch informed Commissioner Sauter that there were no items that the Medical Advisory Committee needed to report on. Commissioner Sauter stated that this was a medical item of some consequence. He added that this topic was brought about by the physicians' concerns that they faced a significant vulnerability in this area and he felt that it was the commission's responsibility to the physicians as well as the fighters to safeguard everyone. Commissioner Sauter felt that Dr. Wallace or another representative from the Medical Advisory Committee should be present at every meeting whether or not there were issues to report on. With that in mind, Commissioner Sauter stated that he would have liked to ask Dr. Wallace if the notice would alleviate any of the vulnerability that the ringside physicians felt.

Commissioner Michelman asked Mr. Lynch if he was aware of any lawsuits against a state or physician alleging some type of liability for not recommending pregnancy testing. Mr. Lynch stated that he was unaware of any lawsuits.

Commissioner Michelman cited the following sentence from the notice, "The commission also wants you to know that the State of California and its agents (including ringside physicians) are not responsible for any harm that might happen if you fight when you are pregnant." From what Commissioner Michelman gathered it seemed to him that the language in the notice stayed away from making it an affirmative waiver so he asked Ms. Scuri for her input.

Ms. Scuri stated that she wanted to stay away from any language that dealt with "as a condition of fighting" because the commission did not have the authority to make a female fighter sign a waiver or notice to waive her rights. She added that she walked a fine line when creating this notice because she wanted to inform the female fighters of the dangers and also of the fact that they voluntarily chose to fight when they knew that they might be pregnant or they haven't had a test to show that they were not pregnant. Ms. Scuri felt that the language in the notice did provide some type of protection because the risk situation where the female fighter chose to fight while pregnant or without a test

showing that she wasn't pregnant would be divulged prior to a fight in the notice. Although this notice did not stop any person(s) from suing the commission or its ringside physicians, Ms. Scuri felt that the chances of someone winning a lawsuit were slim because the female fighters had notice of the dangers prior to competing in a bout.

Ms. Scuri stated that the ringside physicians were approved persons who carried out official responsibilities as delegated by the commission and in this capacity it put them in an awkward position. She felt that Dr. Wallace's main concerns were partly that his malpractice insurance would not cover this duty and partly of the concerns of what the Medical Board would do if he did not ensure the health and safety of the female fighters. Ms. Scuri thought that licensing was another arena and she did not see the same concerns as Dr. Wallace had for the ringside physician's liability. She reiterated that the ringside physicians were in a real awkward position because the past position of the Attorney General's office stated that the State would not be responsible for their actions.

Commissioner Michelman stated that the concerns of the ringside physicians were different than that of what the commission was trying to do for the fighters. This made him feel that there was a nexus because if the commission could not acquire quality physicians the commission would inherently jeopardize the health and safety of the fighters. Ms. Scuri concurred.

Commissioner Michelman stated that he wanted to address the language in the notice. At that point, Ms. Scuri stated that she wrote the notice in simple English and would accept any suggestions in changing the notice. Commissioner Michelman stated that the notice was written excellently but he kept getting caught up on the nub because if it was not a waiver than it should be a hold harmless or a release. He added that there were some statutory issues in terms of whether or not there was the validity to even have a female fighter do this because the commission was conclusively stating that there was no responsibility but yet the commission did not even know if there were any responsibilities.

Ms. Scuri stated that she included the ringside physicians in the notice because of their quasi-official capacity. She added that she could delete the ringside physicians from the notice, which would make the notice 100% accurate because the State of California agents were not responsible for any harm. She noted that there was immunity for licensing decisions and that was why she included the ringside physicians on the notice so that the female fighters were aware of the dangers and also that the commission or its ringside physicians would not likely be held liable. She felt that rephrasing the notice to state that the "ringside physician would not likely be held liable" was something that she would work on and she wanted to know what the commission felt about this concept.

At that point, Ms. Scuri stated that to really take care of the ringside physicians' issues it would be necessary for the commission to create a statute similar to what the Medical Board established for those who served as experts in its cases which would be to give them immunity statutorily. She noted that without statutory immunity the State could not defend the ringside physicians because they were hired by the promoter to function in an

official capacity as delegated by the commission. She added that defending the ringside physicians without creating a statute would be a gift of state funds.

Commissioner Michelman concurred. Also, he felt that the notice should be modified regarding the ringside physicians as suggested by Ms. Scuri. Ms. Scuri stated that she would be happy to comply.

At that point, Chairman Soto asked Commissioner Michelman if he could help modify the notice with Ms. Scuri. Mr. Lynch stated that it could be put on the agenda for the next meeting. Ms. Scuri stated that if the commission let the “lawyers” work it out she could submit something by the next meeting. Commissioner Sauter concurred but stated that the commission needed to include the Medical Advisory Committee’s opinion with this matter. Ms. Scuri stated that at this point it was a question of law because there was a question if the commission had the authority.

Commissioner Ducheny stated that there was an inequity regarding the notice because the commission would ask women to sign it but not the men. He added that men could also have hidden ailments. Ms. Scuri concurred but explained that the commission could not require any person to sign the notice and she pointed out that the main purpose was to inform the female fighters of the risks involved. Commissioner Ducheny stated that the notice was not really doing anything because if the female fighters were not required to sign it and they did not have to submit to a pregnancy test then why give them a notice. Ms. Scuri stated that the way the notice was written the female fighter would have to sign it but it would be up to the commission if they still wanted to pursue the notice. At that point, Chairman Soto stated that he would like to table this issue until the next meeting to get the opinion of the Medical Advisory Committee representative.

Commissioner Michelman stated that since there were possibilities of hidden conditions in both female and male fighters he asked if a pamphlet could be created to address all fighters which would inform them of all risks with separate sections for males and females. He added that the commission could make this pamphlet semi-mandatory reading for all fighters prior to entering the ring and an acknowledgment would be attached so that the commission knows that they received it. He noted that with this type of action the assumption of the risk would be entirely on the fighter.

Mr. Lynch asked the commission if Commissioner Michelman and Ms. Scuri could create a draft notice and inform the commission when they are complete so that the commission could call a meeting of the Medical Advisory Committee to get their input. The commission concurred.

Commissioner Michelman stated that instead of having him and Ms. Scuri revise the notice he suggested that the commission send a copy of the notice to the Medical Advisory Committee first so that they could recommend changes. He added that once the changes were received then he and Ms. Scuri could draft a new notice.

Commissioner Sauter stated that he would be happy to attend any meeting with the Medical Advisory Committee because he felt that this was a critical issue. He felt that this issue was not brought up merely because of the ringside physicians' concerns of the financial implications. He added that it was the commission's responsibility to the female fighters who might not be aware of the risk of fighting while pregnant. He stated that the male fighters were aware of all of the risks involved while fighting and he did not feel that this was across the board.

Commissioner Ducheny stated that Commissioner Sauter should not say that because both women and men could be aware or unaware of hidden conditions. Commissioner Sauter did not feel that the commission should go down this road but he stated that the commission could enumerate what the unnamed male vulnerabilities were because there was already a major vulnerability for females. He noted that he personally did not know what the male vulnerabilities were.

Commissioner Michelman stated that if the commission wanted to broaden the notice he suggested that the pamphlet might work because the Medical Advisory Committee could create certain target information that the pamphlet could focus on. Commissioner Sauter concurred.

Commissioner Sauter asked if any commissioners were on the Medical Advisory Committee. Mr. Lynch informed him that he and Chairman Soto were members. Commissioner Sauter requested that he also be placed on this committee. Mr. Lynch informed Chairman Soto that he would step down as to let Commissioner Sauter join in his place.

Commissioner Ducheny asked Mr. Lynch who was on the Medical Advisory Committee. Mr. Lynch informed him of the members: Dr. Paul Wallace, Dr. Van Buren Lemons, and Dr. Smith Ketchum.

Commissioner Sauter asked if there was a Chief Ringside Physician. Mr. Lynch informed him that there was no Chief Ringside Physician but Dr. Wallace was the Chairman of the Medical Advisory Committee. Commissioner Sauter asked if Dr. Wallace would be present at the meeting. Mr. Lynch stated that Dr. Wallace as well as all of the other members would be present.

Mr. Lynch stated that only the commission could call a meeting of the Medical Advisory Committee or they could delegate the authority to him to call a meeting. Chairman Soto stated that it was in statute.

Ms. Scuri stated that it would be helpful if Commissioner Michelman attended the meeting so that they could hear everything and revise the notice based on what the Committee says. The commission concurred.

Mr. Barajas stated that instead of using a pamphlet to capture all of the licensed applicants he felt that inserting whatever the commission agreed upon regarding a notice

could be inserted on the applications. Ms. Scuri stated that the problem would be whether one time would be sufficient notification or if the fighters should be reminded upon every scheduled bout. Mr. Barajas stated that an announcement could be made at the pre-fight rules meeting. At that point, Mr. Barajas asked if the notice would be published in Spanish, Chinese, etc. and he also asked what would happen if the fighters could not read at all. Ms. Scuri stated that she hoped the notice would be available so that every person who competes understands the risks. Chairman Soto thanked Mr. Barajas for his input.

Mr. Lynch stated that he would set up a noticed meeting with the commission and the Medical Advisory Committee. Also, Mr. Lynch asked the commission if they would like him to send the Medical Advisory Committee a copy of the notice so that they could make comments and address them at the meeting. The commission concurred.

Chairman Soto tabled this issue until the next meeting.

9. LEGISLATION - ACTION

9.1 AB286 - Cedillo - Boxers' Pension

Mr. Lynch noted for the record that this was an information item only.

Mr. Lynch reported that AB286 was an excellent bill that Commissioner Ducheny got Assemblymember Gil Cedillo to carry. He stated that for quite awhile the commission was stuck with depositing all of the pension monies into the General Fund which the State could borrow from and the commission could not directly deposit the monies with the pension plan investment services provider. He noted that this bill it would change that and it would allow the commission to deposit all pension monies directly with the pension plan investment services provider. He added that this would stop the State from borrowing from it.

Mr. Lynch informed the commission that he tried to get a representative from the pension plan investment services provider to attend the meeting to inform the commission of the "hits" the pension portfolio took but no one was available. He ensured the commission that a representative would be available at the July 19, 2001 meeting.

Ms. Scuri stated that this bill was to protect the fiduciary responsibility of the commissioners for the pension plan because the State would no longer be able to access the pension monies. She noted that this was a very good idea because the pension plan was intended for the retirement of professional boxers.

Commissioner Michelman asked if the pension monies that were deposited by the commission into the General Fund were borrowed against or were they borrowed from the actual funds. Mr. Lynch informed him that they were borrowed from the General Fund deposits. Commissioner Michelman asked if the State had an outstanding balance

and if they were going to pay for it. Mr. Lynch informed him that the State always paid back the borrowed funds but with no interest.

Ms. Scuri stated that the commission lost the interest that would have accumulated with the investment services provider. She added that the bill would also make it to where the investments would not have to go through the Department of Finance and the commission could continue using its investment services provider.

Commissioner Sauter asked Mr. Lynch currently what the amount was in the pension plan investment fund. Mr. Lynch informed him that it was about \$3 million but the General Fund had about \$400,000.

Chairman Soto thanked Commissioner Ducheny for his help with finding an author to carry AB286.

9.2 SB694 - Sher - Athlete Agents

Mr. Lynch informed the commission that SB694 would transfer the regulation of Athlete Agents from the Secretary of State to the Department of Consumer Affairs (referred to as the Department from this point forward), which could then transfer it to the California State Athletic Commission. He reported that 12 years ago the same issue arose but the regulation of Athlete Agents ended up going to Industrial Relations and in 1995 it was transferred to the Secretary of State. He noted that there would be approximately 600 persons that would be registered or licensed in California as Athlete Agents.

Mr. Lynch reported that Athlete Agents dealt with professional athletes as well as college athletes that wanted to turn professional. He disagreed with the figure of 600 applicants and felt that there would be a lot more. He noted that in the State of Pennsylvania they registered about 200 persons and had five professional sports franchises where as in the State of California there were more colleges and 19 professional sport franchises. He added that if the commission did get this new duty, the commission did not have the money or the staff to handle it. He estimated that it would cost about \$371,000 plus two new staff members to get the program up and running plus an ongoing cost \$345,000 per year.

Mr. Lynch stated that the bill had already been heard twice and was passed but during the hearings he did not make any comments because he did not know the commission's position regarding Athlete Agents. He recommended that the commission support the bill with amendments. He noted that Commissioner Ducheny had arranged a meeting with Senator Sher's staff to discuss the amendments that staff felt were necessary. He added that the bill gave the commission the right to take in revenue as registration fees but it did not give the commission the authority to spend any money.

Chairman Soto asked Mr. Lynch how would regulating Athlete Agents benefit the commission if it could not spend any of the fees generated. Mr. Lynch informed him that

the commission would be responsible for administering the program and collecting fees but the commission could not spend any of the money.

Mr. Lynch felt that the commission should validate the contracts that the Athlete Agents enter into. He stated that the commission should have a copy of those contracts, which was not currently in the bill, so that staff could enforce them.

Ms. Scuri stated that the Department was given the authority to adopt the regulations and they could delegate that responsibility of the Athlete Agents to the commission. At that point, Mr. Lynch stated that if this bill did pass staff would like to have an effective date of July 1, 2002 rather than January 1, 2002 because it would allow staff time to create regulations. He noted that he did not know the Department's position on the bill because the past two scheduled meetings were canceled. He felt that the Department wanted to know what the commission's position was before they gave theirs. He added that he had scheduled a meeting with the Department on May 29, 2001.

Commissioner Sauter asked if there would be any type of enforcement or investigations of the Athlete Agents. Mr. Lynch informed him that the commission would contract with the Division of Investigation. Commissioner Sauter asked Mr. Lynch what department did the Division of Investigation fall under. Mr. Lynch informed him that it was a part of the Department. At that point, Ms. Scuri stated that the Division of Investigation was comprised of peace officers that were investigators.

Mr. Lynch stated that the commission would also need funding for the dealings with the Office of Administrative Hearings, Attorney General's Office, Department of Consumer Affairs - Division of Investigation, and the start up cost of \$182,000 for computer programming.

Commissioner Sauter asked Mr. Lynch if he was looking for opinions from the commission. Mr. Lynch stated that he was looking for the commission's position on the bill and also any opinions that the commission might have. Commissioner Sauter stated that he was hard pressed with seeing a role for the State of California in this area in terms of representing an interest of the people of California. Mr. Lynch stated that he felt that the Department of Education should regulate the Athlete Agents if they even needed to be regulated at all.

Commissioner Sauter stated that this was a "proverbial tar pit" because whether the commission had the money, the two new positions, and the help of the Division of Investigation the commission would still be dealing with some of the most sophisticated, successful, manipulative, and clever people on the face of the earth. He reported that the NCAA had spent a lot of time on this and numerous colleges have spent a tremendous amount of time trying to protect their students from the vulgarities of the Athlete Agents. He added that the commission should have no role in this and he felt that once the commission started regulating Athlete Agents it would end up becoming incredibly complicated for the commission as well as staff. At that point, Commissioner Sauter recommended that the commission not support the bill altogether.

Commissioner Ducheny stated that since a veteran Senator carried the bill, he felt that the bill would definitely pass. He felt that not supporting the bill would not benefit the commission and he suggested that the commission support the bill with the proposed amendments. He noted that the commission probably would not get all of the amendments through but they could probably bargain with Senator Sher's staff.

Commissioner Ducheny reminded the commission of AB52, which capped the five-percent tax. He stated that the commission whole heartily did not support the bill but it still passed, but through negotiations the commission ended up getting a better deal than what was first proposed AB52. He reiterated that Senator Sher was a veteran Senator and if he wanted it he would get it.

Commissioner Sauter asked Commissioner Ducheny why Senator Sher was interested in delegating the responsibility to the commission. Commissioner Ducheny informed him that the Secretary of State's office no longer wanted to regulate it and he felt that Senator Sher might have felt that this was still an important item that needed to be regulated. Commissioner Sauter asked Commissioner Ducheny if he felt that the commission could persuade Senator Sher to direct this bill to another agency. Commissioner Ducheny did not feel that it was possible and he felt that the commission should just try to get its amendments through.

Commissioner Sauter asked Mr. Lynch if staff had spoken with the Department and informed them that the commission did not want to have anything to do with the regulation of Athlete Agents. Mr. Lynch informed him that May 29, 2001 meeting he would inform them.

At that point, Commissioner Michelman stated that he was not fully opposed to the regulation of Athlete Agents because if the amendments were included and resulted into fees being generated, appropriate staffing acquired, and the commission received more funding then he felt that the commission should embrace it. He added that he did not know if the commission was the appropriate agency to regulate Athlete Agents but it fell into the commission's category because the commission regulated some forms of sports. He noted if it did turn into a "proverbial tar pit" where the commission was under funded and other problems occurred then he felt that the commission should defer out but if the funding was there and it could be handled appropriately then he felt that the commission should embrace it. Commissioner Ducheny concurred.

Chairman Soto asked Mr. Lynch if the commission regulated Athlete Agents would the commission see a dime of the revenues. Mr. Lynch stated that the commission would get some type of revenue but it would be strictly for the implementation of the Athlete Agent program and the commission could not be use if for any other purposes. Ms. Scuri concurred.

Commissioner Michelman stated that he was confused because if the commission took over the responsibility of Athlete Agents he felt that the commission should be able to spend the revenues however they saw fit. Ms. Scuri informed him that the legislature

required that the fees that were set could only cover the cost back to the program and fees could not be used for any other purpose.

Ms. Scuri stated that the Department had many other agencies underneath it that could possibly take on this responsibility. She added that with the numerous agencies and support staff that the Department had the capabilities were far better than that of the commission. With that in mind, she suggested that the commission could ask the Department not to delegate the authority of Athlete Agents to the commission.

Commissioner Michelman asked Ms. Scuri if the fees that were collected from the Agents would be used for regulating them. Ms. Scuri stated that there was no spending authority in the bill. Commissioner Michelman stated that he was presuming that the amendments were put through. At that point, Commissioner Ducheny stated that the money would be the deal breaker because if the commission could not obtain the funding then the commission would not regulate it. Commissioner Michelman stated that if the funding was there it should be enough to regulate Athlete Agents. Theoretically speaking, Mr. Lynch stated that there should be.

Commissioner Sauter stated that the regulation of Athlete Agents should go to the agency in the Department that regulated conventional show business agents. Ms. Scuri informed him that the Department did not regulate show business agents. She informed him that the Department had several licensing programs underneath it that could regulate Athlete Agents. With that in mind, Commissioner Sauter stated that whatever agency under the State of California that regulated show business agents should also take on the responsibility of the Athlete Agents. He noted that many of the Athlete Agents worked for companies that booked both theatrical and sports activities and therefore the agency that already regulates show business agents already had a preexisting authority that should compel them to regulate Athlete Agents.

Commissioner Sauter expressed that he was worried about regulating Athlete Agents because there was a possibility that commission could get involved in investigations that would end up in litigation, which the commission would have no expertise in. He stated that the commission's main purpose was to ensure the health and safety of fighters in the State of California but regulation of Athlete Agents did not fall under that purpose unless the commission wanted to change its goals.

Commissioner Sauter stated that he did not want to offend Senator Sher but the commission should do whatever it could to deflect the regulation of Athlete Agents. He added that it did the commission no good, it represented no new income, and it represented bad problems. Commissioner Ducheny informed Commissioner Sauter that the Legislature might view the commission as being lazy and that it did not want to take on any new responsibilities. Commissioner Ducheny noted that the commission might end up with it any way. At that point, Commissioner Sauter stated that the commission could recommend to the Legislature a more logical way of dealing with it and at the same time relay to them that the commission was not lazy nor was it troubled by accepting new responsibilities.

Commissioner Michelman stated that if the commission was the Boxing/Martial Arts Commission then he agreed that the Athlete Agents should be placed at another agency but since the commission's title was the California State Athletic Commission and the agents represented athletes this made him feel that it fell under the commission's authority. He added that as long as there was appropriate funding which would allow the commission to obtain the proper staff with expertise of Athlete Agents then there would be no problem but if the expertise was not there then there would be a problem.

Mr. Lynch stated that the amount of money that the commission was requesting to regulate Athlete Agents was the same amount that the commission fought for when the mixed martial arts regulations were created. Since the mixed martial arts funding was not approved, Mr. Lynch felt that the funding for Athlete Agents would also not get approved.

Ms. Scuri suggested that the commission could take a position to seek that the agency that regulates show business agents could also regulate Athlete Agents. She stated that if that was not sufficient then commission could create a back up position so that there would be an option to fall back on.

Ms. Scuri informed the commission that she was not speaking as a lawyer but as a person who had spent over 20 years in government. With that in mind, she felt that money did not equate to expertise. She stated that the commission was created by an initiative in the early 1920's with the intent to ensure the health and safety of the boxers. She added that even though the commission's name was misleading their main criteria was totally different then what was required for regulating Athlete Agents. She noted that staff would have a difficult time with incorporating Athlete Agents into its criteria and she felt that finding another agency to take on this responsibility would be more beneficial for the commission.

Commissioner Ducheny asked Mr. Lynch how the Secretary of States office dealt with it. Mr. Lynch stated that they just registered them but the current bill requires enforcement. At that point, Ms. Church stated that it was not mandatory for Athlete Agents to register with the Secretary of States office but under the current bill all agents would have to be registered. She noted that the Secretary of State did not enforce it.

Ms. Scuri stated that this might have been the reason why the Legislature wanted to move it to the Department because they figured that the Department had the experience plus the enforcement capabilities. Mr. Lynch concurred.

Commissioner Ducheny asked Mr. Lynch if the Legislature suggested that the Department delegate it to the commission. Mr. Lynch informed him that the Legislature gave the Department the authority to give it to the commission but he stated that the Department could probably keep it. Ms. Scuri concurred and stated that she suggested that the commission ask that the Department keep it because they had a greater staffing network, more expertise, and they could absorb some of the situations that the commission would not be able to. She added that the Department might have mixed

feelings with taking on a new program but if they wanted to delegate it to the commission then the commission should try to do whatever it takes to not assume the responsibility.

Commissioner Ducheny asked if in general was the commission opposed to the new responsibility going to the Department. Commissioner Sauter stated that the commission's attitude was "nimby" which meant that anywhere but the commission's backyard. He felt that the commission should stay out of it altogether.

Commissioner Sauter asked if an agent would have to be licensed in the State of California if he was based out of New York but had clients that played for the Los Angeles Lakers. Ms. Church informed him that the agent would have reciprocity with California but the agent would still have to register and pay a fee. Commissioner Sauter stated that the point was that the commission would have to try to cope with a major firm in New York City about an athlete who made \$3,000,000 in a year playing for the Lakers. All respect to staff, but Commissioner Sauter did not feel that the \$150,000 which would be used to hire two new staff members was not going to be effective because he felt that the commission would still have to spend more money contracting with experts to come in and resolve problems. He suggested that the commission recommend other means of regulating Athlete Agents while at the same time trying not to alienate any of the persons who were critical to the commission in many areas.

Commissioner Ducheny suggested that the commission should support the effort as long as the responsibility did not fall on the commission. Commissioner Michelman did not agree because he did not know who would be more appropriate and he still did not know for certain if the commission was the appropriate agency for it. He added that he would need more information before he could go forward.

Commissioner Ducheny asked Ms. Scuri how this bill ended up being directed at the Department. Ms. Scuri stated that she did not know but she felt that it was directed at the Department because its expertise in licensing. Commissioner Ducheny asked Ms. Scuri if she thought there were any discussions between the Department and Senator Sher prior to the bill being introduced. Ms. Scuri stated that she would be willing to bet that there was not. At that point, Mr. Lynch informed the commission that the Department informed the commission that there was a bill (SB294) that was going through the Legislature after the commission was already aware of it.

Commissioner Sauter asked Mr. Lynch what the timeframe was. Mr. Lynch informed him that if passed the bill would become into effect as of January 1, 2002. Commissioner Sauter asked when the final hearing was going to be. Mr. Lynch stated that he would find out and notify the commission as soon as possible.

Commissioner Michelman stated that as he read the bill with the amendments and still needed more information but at a minimum he did agree with the amendments. He felt that the commission should not support it without the amendments.

Commissioner Ducheny stated that it would be better for the commission if they were “on board” instead of “off board” so he suggested that the commission support the bill with the amendments. He added that the commission could still negotiate and if the funding was not going to be there then the commission could oppose it.

Commissioner Sauter stated that the commission did not know how this bill came about or the rationale behind it. He added that Senator Sher might not be that firm on the subject and might be open to discussion. He stated that outside of his objection to it, if the commission had to do something with it a telephone conference or something of that nature needed to be set up so that more information could be gathered for discussion. Ms. Scuri concurred.

Commissioner Michelman suggested that if the commission was going to set up a meeting, there needed to be some type of committee created with experts or participants in the industry that could report to the commission. Commissioner Sauter stated that he could not agree more but if the commission did decide to take on the responsibility of the Athlete Agents the commission would move so far out of its realm of expertise. At that point, Commissioner Ducheny volunteered to personally speak to Senator Sher to resolve all of the commission’s concerns. Commissioner Sauter concurred.

Chairman Soto asked if Commissioner Sauter was interested in becoming a member of the Legislative Committee. Commissioner Sauter stated that he would do whatever it took to help the commission. Commissioner Sauter asked Mr. Lynch if he could supply him with a list of the committees and the committee members. Mr. Lynch informed him that he would get it to him as soon as possible.

Since there was a change of commissioners, Commissioner Michelman suggested that at the next meeting the commission review its committees and assignments. Chairman Soto stated that the commission normally appointed commissioners who had direct knowledge or experience in the field for which the committee represented. He noted that each commissioner was welcomed to join any of the committees. At that point, Mr. Lynch stated that the commission normally kept the amount of committee members to two per committee because if it were more than two then the commission would have to notice the meeting every time the committee met.

Commissioner Michelman stated that if any of the commissioners who wanted to be involved in a certain committee where their skills would be needed but the number of committee members were more than two staff would just have to notice that committee meeting.

For the record, there was a brief break to allow Ms. Scuri time to collect information regarding Athlete Agents.

Ms. Scuri reported that the Athlete Agents would have to obtain a certificate of registration from the commission. She stated that there was no indication of any analysis of why the bill was directed at the Department as opposed to some where else. She noted

that the National Conference of Commissioners on Uniform State Laws, National Collegiate Athletic Association, Pack 10 Conference, USC, and Stanford's Department of Athletics supported the bill.

Ms. Scuri informed the commission that the Labor Commission regulated the show business agents/talent agents. She stated that some of the licensing requirements were that all persons had to be licensed, the license had to be posted, an application had to be filed, submit fingerprints, and be investigated regarding character responsibility. At that point, Mr. Lynch stated that the proposed bill required the same things. Ms. Scuri concurred and stated that the Labor Commission also looked over the contract, had the authority to give temporary licenses, could revoke licenses, and also collected the forms or addendum of the contract. She noted that the Labor Commission had a comprehensive regulatory program.

Commissioner Ducheny asked Ms. Scuri if she could create a summary for the commission so that when they meet with the Department and Senator Sher's office they could present it to them. She concurred but stated that she would get a summary from the Labor Commission.

Commissioner Sauter asked that Ms. Church do some inquiry as to the nature of the work that the Labor Commission conducted such as how complex of a task was this, what kind of man power and budget was put behind it, and what impact was there upon the management.

Commissioner Michelman stated that during his remote involvement with the industry it was pretty intense because of union battles, disputes between agents vs. studio, and also disputes with managers. He noted that these types of disputes had been happening since the early 1940's and up to recent times.

Chairman Soto asked Mr. Lynch if in the bill it stated that the commission could not look at the contract. At that point, Commissioner Michelman stated that clearly there needed to be some amendments or otherwise the commission would just be a collecting body, with no enforcement, and with no idea of what we were doing. Ms. Scuri concurred and stated that it would be hard for the commission to get amendments for something that they want to be a uniform law. She felt that this was part of the problem because they were trying to make it a uniform law and the genesis of the bill came from an argument that they had legislation either pending or enacted in 22 different states and wanted to print the same identical law so that there could be interstate commerce without any hitches. Commissioner Michelman concurred. Ms. Scuri added that the commission could always try.

Chairman Soto tabled this issue. At that point, Mr. Lynch suggested that the staff cancel the May 29, 2001 meeting with the Department until the commission addressed the issue. Ms. Scuri informed Mr. Lynch that if the Department was going to provide the commission with information the meeting should stay scheduled. Mr. Lynch stated that

the Department wanted to hear the commission information. With that in mind, the commission instructed Mr. Lynch to cancel the meeting.

10. FINE SCHEDULE - INFORMATION

Mr. Lynch stated that at the March 22, 2001 meeting, Commissioner Ducheny requested that staff place the Commission's Fine Schedule on the May 24, 2001 meeting agenda. He reported that in 1986, he along with former Commissioner Ara Haribidian proposed the schedule of fines for boxers, promoters, matchmakers, seconds and managers which the commission approved. He noted that the commission might want to revise it because it was 15 years old but he reminded the commission that pursuant to Business and Professions Code Section 18843 the commission's maximum statutory fine could only be \$2,500 per violation. (Attached for the record is a copy of the Commission's Fine Schedule)

Mr. Lynch stated that some of the fines were low but 15 years ago the four round boxers were only making between \$250 – \$300 per bout. He noted that currently the four round boxers made between \$400 - \$500.

Chairman Soto stated that he did not want to see what happened to Bob Arum of Top Rank, Inc. because for his violation he was only fined \$2,500 for bribing a sanctioning body. Mr. Lynch stated that the neither the commission nor staff could change this amount because it was in statute. He added that staff tried to get it changed but the Department said no because they thought that it was too controversial.

Chairman Soto asked Mr. Lynch how much did the State of Nevada fine Mr. Arum. Mr. Lynch informed him that it was \$100,000.

Commissioner Ducheny stated that rather than going through the whole fine schedule he felt that the fines on boxers were sufficient and he had created new amounts for the other licensees but a nominal affect would be focused on managers and promoters because the fines were too low. He requested that he meet with staff to create a new schedule and then report back to the commission with it at a later meeting with a recommendation for the commission's approval. The commission concurred.

Action: Motion by Commissioner Ducheny and seconded by Commissioner Sauter to allow Commissioner Ducheny to meet with staff to revise the Commission's Fine Schedule and report back to the commission at a future meeting for commission approval.

Vote: Unanimous

11. COMMITTEE REPORTS - INFORMATION/ACTION

11.1 Arbitration Committee Report

Mr. Lynch informed the commission that on April 17, 2001, he along with Commissioner Ducheny and Mr. Plowman conducted an arbitration hearing in San Diego. He noted that it was for a very popular boxer, Jorge Paez. He added that Mr. Paez did not attend but they proceeded with the hearing without him. At that point, Commissioner Ducheny stated that Mr. Paez had a fight in Mississippi and he wanted to know if the Mississippi commission held the portion of his purse for his manager. Mr. Lynch did not know but he stated that he would find out.

Commissioner Michelman asked Mr. Lynch what the recourse would be if the Mississippi commission did not withhold the money. Mr. Lynch informed him that all States did not comply with California rules but if Mississippi did withhold the amount the manager would receive it. He noted that if the amount was not collected then Mr. Paez would be suspended for not complying with the commission's order of paying the 1/3 of his purse. Commissioner Michelman asked Mr. Lynch when the suspension would be lifted. Mr. Lynch informed him that it would only be lifted once the manager received his 1/3 of the purse.

Commissioner Ducheny asked Mr. Lynch to follow through with this situation and to keep him posted.

11.2 Pension Plan Review Committee Report

This item was addressed in item 7.2. Chairman Soto appointed Commissioner Michelman to the Pension Plan Review Committee.

11.3 Medical and Safety Standards Advisory Committee Report

There was nothing to report.

11.4 Legislative Committee Report

This item was in items 7, 8, and 9.

11.5 Officials' Committee Report

Chairman Soto reported that Referee James Jen-Kin III had received numerous poor ratings and he deferred to Mr. Lohuis for comments. Mr. Lohuis reported that Mr. Jen-Kin resigned as a professional referee and opted to be a full time judge. He added that he supported Mr. Jen-Kin's decision.

Chairman Soto stated that at one of the fights that he attended the referee, during rest periods did not stand by or communicate with the ringside physician, which was a direct

violation of the ring mechanics. He informed the commission that he demanded that the referee comply with the mechanics and the referee complied.

11.6 Amateur Boxing Committee Report

Mr. Lohuis stated that the amateur boxing organizations have cooperated with him and have been performing greatly. He informed the commission that there was another pro/am card that was excellent but the draw was not. He added that USA Boxing, Inc. had adopted a nationwide resolution that would allow in certain situation amateurs to compete on professional card.

Commissioner Michelman suggested that since the commission delegated the responsibility of amateur boxing to USA Boxing, Inc. a representative be present to report any issues at hand. Since there were four regions, Commissioner Michelman felt that the representative closest to where the meeting was going to occur should be present. Commissioner Sauter concurred.

At that point, Chairman Soto appointed Commissioner Michelman to the Amateur Boxing Committee.

Commissioner Ducheny stated that he along with Commissioner Michelman attended an amateur event in San Diego. He noted that the event was excellent and the people were very nice. Commissioner Michelman concurred.

12. AGENDA ITEMS FOR FUTURE MEETINGS

The following items were recommended:

- Review of the committees
- Assignment of the committees
- Dr. Wallace submit a written report in a timely manner and report on those medical issues at every meeting
- USA Boxing, Inc. representatives report at every meeting

13. COMMISSIONERS' COMMENTS AND/OR RECOMMENDATIONS

Commissioner Sauter stated that he attended the May 22, 2001 event in San Francisco. He noted that the event was excellent and the production was spectacular and he hoped that the promoter continued to promote and draw the same type of crowd. He added that the mayor of San Francisco was in attendance and he suggested that the Chairman send a letter to Mayor Brown stating that the commission hoped that he would continue to support the sport in his community.

Commissioner Sauter informed the commission that there was an incident that occurred during the event but Mr. Barajas resolved the situation with utmost professionalism. He commended Mr. Barajas with his effort on enforcing the commission's stance on abuse of officials.

Commissioner Michelman requested that Chairman Soto also send a letter to the Barona Band of Indians to acknowledge the excellent event that he attended.

14. PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

There were no comments.

The meeting adjourned at 11:55 a.m.

The draft minutes were prepared by:

FRANK MUNOZ

DATE

The final minutes were prepared by:

FRANK MUNOZ

DATE